

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1090-03
Bill No.: Perfected HCS for HB 366
Subject: Business and Commerce; Economic Development Dept.; Revenue Dept.;
Taxation and Revenue - Sales and Use
Type: Original
Date: April 20, 2011

Bill Summary: Would authorize local government technology business facility projects, and would create state and local sales and use tax exemptions for data storage center projects.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Unknown)	(Unknown)	(More than \$100,000 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(More than \$100,000 to Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Conservation Commission	(Unknown)	(Unknown)	(Less than \$100,000 to Unknown)
Parks, and Soil and Water	(Unknown)	(Unknown)	(Less than \$100,000 to Unknown)
School District Trust	\$0	\$0	(Less than \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown)	(Unknown)	(Less than \$100,000 to Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	(More than \$100,000 to Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume the proposed legislation would not result in additional costs or savings to their organization.

BAP officials also noted that the proposal would define qualifying data center projects. A new facility could not replace an existing facility, and would require the investment of \$5 million over 36 months, and an expanding facility would require the investment of \$1 million within 12 months. These firms may fall under NAICS codes 518210, 519130, or 517110. Officials at DED report there were 815 Missouri firms in these codes in the autumn of 2010.

This proposal would provide a sales tax exemption for certain inputs of production, utilities including internet services, and construction materials used by new data storage centers. This proposal would not impact current General and Total State Revenues, but future revenues may be forgone.

This proposal would also provide a sales tax exemption for certain inputs of production, utilities, and construction materials used by expanding data storage centers, to the extent the amount of new inputs exceed current input levels. This proposal would not impact current General and Total State Revenues, but future revenues may be forgone.

ASSUMPTION (continued)

This program could encourage other economic activity, but BAP does not have data to estimate the induced revenues. BAP officials noted that the Department of Economic Development may have such an estimate.

Officials from the **Department of Economic Development** (DED) assume this proposal would create a state and local sales and use tax exemption for data storage centers. The data storage centers that seek a tax exemption would be required to submit a project plan to the DED, and DED would be responsible for certifying the projects in conjunction with the Department of Revenue (DOR). The proposed legislation would also require random audits to ensure compliance with the intent the data storage centers and server farm facilities indicated in their project plan.

DED is unable to determine the exact impact the proposed legislation would have on total state revenue and therefore would anticipate an unknown impact to total state revenues over \$100,000.

DED would be responsible for determining eligibility for the exemption and also for the compliance and auditing functions required by the proposed legislation, and anticipates the need for one additional FTE. This FTE would be an Economic Development Incentive Specialist III and would be responsible for reviewing the project plan applications to make sure they meet the criteria of the program and conducting random audits to ensure compliance with the program.

DED submitted a cost estimate for the proposal including salaries, benefits, equipment, and expense totaling \$60,576 for FY 2012, \$65,674 for FY 2013, and \$66,406 for FY 2014.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DED could absorb the additional workload with existing resources. If this proposal created an unanticipated increase in the DED workload, or if multiple proposals were implemented which created a substantial increase in the DED workload, resources could be requested through the budget process.

Officials from the **Department of Elementary and Secondary Education** (DESE) assume that other than the potential impact on the revenue stream of state and local governments which our department has no means to calculate, this proposal would not impact DESE or local schools.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources** (DNR) assumed a previous version of this proposal would provide state and local sales and use tax exemptions for all machinery, equipment, computers, electrical energy, gas, water and other utilities including telecommunication services used in new data storage centers. It would also provide a state and local sales and use tax exemption for purchases of tangible personal property for the construction, repair, or remodeling of a new data storage center.

The proposal would also create a state and local sales and use tax exemption for existing data storage centers for all machinery, equipment, computers, electrical energy, gas, water and other utilities including telecommunication service. The exemption would only apply to the increase in expenditures for utilities over the previous year's expenditures. The exemptions for tangible property would be available only on the increase in expenditures over the average of the previous three years expenditures.

In order to receive the sales tax exemption, an application would have to be made to the Department of Economic Development for certification.

The Departments of Economic Development and Revenue would be authorized to conduct random audits to ensure compliance with the requirements for state and local sales and use tax exemptions authorized under this proposal.

Adding additional sales tax exemptions would decrease the amount of funding available in the Parks & Soils Sales Tax Funds. Exempting sales tax for the purposes described in this proposal would decrease the amount of funding available in the Parks & Soils Sales Tax Funds for long term operation of state parks and historic sites and assistance to agricultural landowners through voluntary programs.

DNR officials indicated an unknown loss of revenue to the state General Revenue Fund and to Parks, and Soils Sales Tax Funds.

ASSUMPTION (continued)

Officials from the **Department of Revenue** (DOR) assume this proposal would create a sales and use tax exemption for data center operations. The proposal would reduce state revenues.

Beginning August 28, 2011, the following would be exempt from sales and use tax:

- * all electrical energy, gas, water and other utilities including telecommunication services used in a new data storage center
- * All machinery, equipment and computers used in any new data storage center, and
- * All sales at retail of tangible personal property and materials for constructing, repairing, or remodeling any new data storage center.

Entities would be required to submit a plan to the Department of Economic Development (DED) to determine eligibility. DED would certify the project to the DOR, and would issue an exemption certificate to the taxpayer. Beginning August 28, 2011 an expanding data storage center could be exempt from sales and use tax with the same criteria as with a new data storage center.

DED and DOR would conduct random audits and create rules to carry out the provisions of this legislation. DOR and ITSD-DOR would make programming changes to the sales tax processing system (MITS).

DOR assumes that Collections & Tax Assistance (CATA) would have additional contacts due to this exemption, and would require one additional FTE Revenue Processing Technician I (Range 10, Step L) per 24,000 additional contacts annually to the registration section, with CARES equipment and agent license, and one additional FTE Revenue Processing Technician I (Range 10, Step L) per 4,800 additional contacts annually to the tax assistance offices, with CARES equipment and agent license.

DOR also assumes that Sales Tax would require one additional FTE Revenue Processing Technician I (Range 10, Step L) for completion of amended returns and processing refunds

DOR officials submitted an estimate of the cost to implement this proposal including three additional FTE and the related fringe benefits, equipment, and expense totaling \$122,529 for FY 2012, \$121,284 for FY 2013, and \$122,558 for FY 2014.

ASSUMPTION (continued)

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DOR could absorb the additional workload with existing resources. If this proposal created a significant unanticipated increase in the DOR workload, or if multiple such proposals were implemented, resources could be requested through the budget process.

The Department and ITSD-DOR would also make programming changes to the sales tax processing system (MITS). DOR officials provided an IT cost estimate of \$22,260 based on 840 hours of programming.

Oversight assumes ITSD-DOR is provided with core funding to handle a certain amount of normal activity each year. Oversight assumes ITSD-DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, ITSD-DOR could request funding through the appropriation process.

Officials from the **Department of Conservation** (MDC) stated that exempting data storage centers and server farms from sales tax would decrease sales tax collected and thus would decrease revenue to the Conservation Sales Tax Funds. MDC deferred to the Department of Revenue for an estimate of the revenue reduction.

Officials from **St. Louis County** stated that the loss from a previous version of the proposal would not be great, but they could not provide an estimate of that loss.

Officials from the **City of Raytown** stated that they could not identify any fiscal impact to their organization.

In response to a previous version of this proposal, officials from **Boone County** stated that it is impossible to determine the long-term loss of local tax revenues that would stem from the contemplated on-going exemptions for utilities, machinery and equipment, and personal property purchases without examining the details of a specific project, but the loss of local revenue would be substantial. The on-going exemptions for local tax revenues contemplated in the bill would amount to a substantial loss to the schools, libraries, fire districts, city and county governments.

Officials from the **City of Kansas City**, **St. Charles County**, and the **Parkway School District** stated that a previous version of this proposal could result in a reduction of revenue for their organizations but could not provide an estimate of that anticipated loss.

ASSUMPTION (continued)

Local government technology business facility

Oversight notes that these provisions would authorize a local government to purchase, construct, extend, or improve a business facility for certain technology businesses. Oversight notes that these provisions are permissive; therefore, any fiscal impact from those activities would result from decisions made by the governing body of the local government. Oversight will not indicate any fiscal impact for those provisions in this fiscal note.

Sales tax exemption for data storage centers and server farm facilities

Oversight notes that these provisions would require a minimum \$5 million investment in a new facility within thirty-six months, or a minimum \$1 million investment in an expanding facility within twelve months. The proposed project would require approval by the Department of Economic Development (DED) which would conditionally certify the project to the Department of Revenue (DOR). Upon completion of the project, DED would certify the project eligibility to DOR, and DOR would refund the sales tax paid on the project.

If the proposal became effective August 28, 2011, construction could begin late in FY 2012 and would likely not be completed until late in FY 2013. Refunds would not likely be certified and paid to project owners until FY 2014.

Oversight is not aware of any existing or planned projects which could qualify for the program, but if one new facility project was completed in time for a refund to be paid in FY 2014, the sales tax amounts could be computed as follows. For fiscal note purposes, Oversight assumes the entire \$5 million investment would qualify for the exemption.

Entity	Sales Tax Rate	Sales Tax
General Revenue Fund	3%	\$150,000
Conservation Commission Fund	1/8%	\$6,250
School District Trust Fund	1%	\$50,000
Parks, and Soil and Water Funds	1/10%	\$5,000
Local Governments	Average 2.5%	\$125,000

ASSUMPTION (continued)

Oversight will indicate a revenue reduction in excess of \$100,000 for FY 2014 for the General Revenue Fund and for local governments, and less than \$100,000 for other state funds which receive sales tax revenues.

Amendment 1

These provisions would extend the issuance of job retention tax credits from August 30, 2013, to August 30, 2015, and would authorize economic incentives for job retention projects within high-risk metropolitan statistical areas as defined in the bill under the Missouri Quality Jobs Program. The economic incentives can be in the form of retaining taxes otherwise withheld from retained jobs, tax credits, or sales and use tax exemptions. The provisions specify the requirements for a qualified company to receive benefits under the program, how the benefits would be calculated, and the penalties for failure to meet any requirements under the program. The provisions would disallow a company which receives benefits for a job retention project within a high-risk metropolitan statistical area under the Missouri Quality Jobs Program, from receiving any tax credit or exemption or withholding tax retention under the Manufacturing Jobs Act.

Officials at the **Department of Economic Development** assume that similar provisions in HB 924 LR 2067-01 would increase the number of applicants for the tax credit; however, the cap on the tax credit remains the same, resulting in no fiscal impact from these provisions.

Officials at the **Department of Revenue** (DOR) assumed in response to similar provisions in HB 924 LR 2067-01 that the IT cost to implement the proposal would be \$71,232 based on 2,688 hours of programming to make changes to DOR systems.

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

ASSUMPTION (continued)

DOR officials assumed that beginning August 28, 2011, in addition to the exemptions granted under Chapter 144, the Department may approve a qualified company for an exemption of up to 100% of the state sales and use taxes not to exceed three years from the date of approval of sales and leases of tangible personal property purchased for use in the project facility and of sales and leases of tangible personal property and materials for the purpose of constructing, repairing, or remodeling the project facility. Tax credits and exemptions allowed by this legislation will create an unknown, negative impact on Total State Revenue.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** assume that there is no fiscal impact to their organization as a result of similar provisions in HB 924 LR 2067-01.

Oversight assumes the extension of the job retention tax credits from August 30, 2013, to August 30, 2015 is outside the fiscal note period and is not shown. Oversight notes that the sales tax exemption in these provisions would likely reduce sales tax revenues, and has included in this fiscal note a revenue reduction to the General Revenue Fund, Conservation Commission Fund, and to Parks, and Soils Funds.

Amendment 2

This provision would prohibit political subdivisions from providing telecommunications services or telecommunications facilities to the extent that they are prohibited from doing so by section 392.410 RSMO.

Oversight assumes this provision is a clarification that an existing prohibition in state law is not modified by this proposal and will not indicate any fiscal impact to the state or to local governments.

ASSUMPTION (continued)

Amendment 3

These provisions authorize additional powers regarding special energy improvement projects for a community improvement district.

Officials from the **Department of Economic Development, Department of Natural Resources, City of Kansas City, County of St. Louis, and the City of Raytown** assumed that there would be no fiscal impact to their organizations from similar provisions in HB 671 LR 1634-01.

Oversight assumes these provisions are permissive and will not include a direct fiscal impact to the state or to local governments in this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Revenue reduction</u> - sales tax exemption			<u>(More than \$100,000 to Unknown)</u>
	<u>(Unknown)</u>	<u>(Unknown)</u>	
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(More than \$100,000 to Unknown)</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue reduction</u> - sales tax exemption			<u>(Less than \$100,000)</u>
	<u>\$0</u>	<u>\$0</u>	
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
CONSERVATION COMMISSION FUND			
<u>Revenue reduction</u> - sales tax exemption	(Unknown)	(Unknown)	(Less than \$100,000 to Unknown)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Less than \$100,000 to Unknown)</u>
PARKS, AND SOIL AND WATER FUNDS			
<u>Revenue reduction</u> - sales tax exemption	(Unknown)	(Unknown)	(Less than \$100,000 to Unknown)
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Less than \$100,000 to Unknown)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
LOCAL GOVERNMENTS			
<u>Revenue reduction</u> - sales tax exemption	(Unknown)	(Unknown)	(More than \$100,000 to Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(More than \$100,000 to Unknown)</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which construct or acquire qualifying facilities.

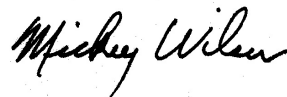
FISCAL DESCRIPTION

The proposed legislation would authorize local government technology business facility projects, and would create state and local sales and use tax exemptions for data storage center projects.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
Division of Budget and Planning
Department of Conservation
Department of Economic Development
Department of Elementary and Secondary Education
Department of Natural Resources
Department of Revenue
Boone County
St. Charles County
St. Louis County
City of Kansas City
City of Raytown
Parkway School District



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Director
April 20, 2011